IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 19271 of 2004

Between:

Vadde EEranna S/o.Vadde Paddaiah
R/o.Banaganapalle Village and Mandal, Kurnool District.

..... PETITIONER

AND

1 The Superintendent of Police Kurnool, Kurnool District.
2 The Deputy Superintendent of Police Kurnool, Kurnool District.
3 The Station House Officer Nandivargam Police Station
Kurnool District.
4 Vadde Bhudevi D/o.Venkateswarlu
R/o.Palukuru Village, Banaganapalle Mandal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more one in the nature of Writ of Mandamus declaring the action of the respondents in not completing the investigation and filing charge sheet in Crime No.51/2003 of Nandivargam Police Station, Banaganapalle Mandal, Kurnool District as illegal, arbitrary amounting to dereliction of duty and consequently direct the respondents to complete the investigation and file charge sheet in Crime No.51/2003 of Nandivargam P.S.Banaganapalle Mandal, Kurnool District forthwith.

Counsel for the Petitioner: MR.M.SUBBA REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR HOME

Counsel for the Respondent No.4: ---

The Court, at the admission stage, made the following:

ORDER:

The petitioner seeks a writ of Mandamus declaring the action of the respondents in not completing the investigation and filing a charge sheet in Crime No.51 of 2003 of Nandivargam P.S. Banaganapalle Mandal, Kurnool District as arbitrary and illegal.

The petitioner states on the basis of a report given by his daughter-in-law, who is fourth respondent herein, stating that her husband (son of the petitioner) died by consuming poison, Crime No.51 of 2003 was registered on 07.10.2003 by the 3rd respondent under Section 174 of the Criminal Procedure Code (Cr.P.C.). However, on the basis of a statement made by his son before his death, the petitioner lodged a complaint before the Judicial Magistrate of First Class, Banaganapalle on 19.11.2003 alleging that his son was forced to consume poison by the 4th respondent, her father and others. The said complaint was forwarded by the learned Magistrate under Section 156(3) of the Cr.P.C. and on the basis of the same, the third respondent has altered the provision of law to Section 302 of the Indian Penal Code (IPC). The grievance of the petitioner is that after altering the provision of law, the respondents 1 to 3 have not taken any steps and no further investigation has been conducted. Hence, this writ petition.

On behalf of the respondents, the Sub-Inspector of Police, Nandivargam Police Station, Kurnool District, filed a counter affidavit

stating that basing on the complaint given by the fourth respondent, the third respondent registered Crime No.51 of 2003 under Section 174 Cr.P.C. on 07.10.2003 and the investigation was taken up. Thereafter on the basis of a private complaint lodged by the petitioner before the Judicial Magistrate of First Class at Banaganapalle, the provision of law was altered and the Crime was registered under Section 302 IPC. During the course of the investigation, four prosecution witnesses were examined. The second respondent herein vide memo dated 10.01.2004 directed the Circle Inspector of Police, Panyam circle, to record the statement of Dudekula Hussain Sab, RMP Doctor, under Section 164 Cr.P.C. whether the deceased was in a position to give statement at the time of admission and to examine all the concerned witnesses and also to take the copy of the case sheet. In pursuance thereof, the second respondent on 23.02.2004 addressed a letter to the Panchayat Secretary, Palukur village, requesting to issue residential addresses of Vadee Sujatha and her husband Venkata Ramudu as they were cited as witnesses in the crime. In response to the same, the second respondent was informed that the said persons do not belong to Palukur village. The second respondent also addressed a letter on 10.06.2004 to the Medical Officer, Government Area Hospital, Nandyal, requesting to give his opinion about the condition of the deceased. On 15.07.2004, a report was received from Dr.Rani Prameela, Civil Assistant Surgeon, District Government Hospital, Nandyal who opined that the patient's condition was very bad at the time of admission and he was not fit to give statement. On 27.10.2004, Circle Inspector, Panyam P.S. forwarded the C.D. file to APP.Gr.I. requesting to peruse the complaint and give her opinion whether it is a fit case to file charge sheet while enclosing the Medical Officer's report. The report of the APP.Gr.I. is awaited. Soon after the receipt of the report from APP.Gr.I., necessary decision will be taken with regard to filing of the charge sheet.

In the light of the averments in the counter affidavit, it is clear that investigation in Crime No.51 of 2003 has already been completed

and the respondents are about to take a decision with regard to filing of the charge sheet. In the circumstances, no further adjudication is necessary in the writ petition. Accordingly recording the statement of the respondents in their counter affidavit, the writ petition is disposed of with a direction to the respondents 1 to 3 to take the necessary further steps in accordance with law expeditiously. No costs.

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17.11.2004

VGB

To

1 The Superintendent of Police Kurnool, Kurnool District.
2 The Deputy Superintendent of Police Kurnool, Kurnool District.

3 The Station House Officer Nandivargam Police Station
Kurnool District.

4 2CCs to the Government Pleader for Home, High Court Buildings,

Hyderabad (OUT)

5 2CD copies